IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.240 OF 1998

The Commissioner of Income-tax,
Bombay City - II, Bombay .. Applicant.
V/s.
M/s.New Heaven Steel Ball
Corporation Ltd. .. Respondent.

Mr.A.S. Rao for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following question for the opinion of this Court reading as under :-

> Whether in the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amount og gratuity which was exempt u/s.10(10) of the I.T. Act, in the hands of the employees, should be excluded from the computation of disallowance under sec. 40A(5) of the Act ?

2. The above question has already been answered by the Division Bench of this Court in the case of **CIT V/s. Hindustan Petrolium Corp. Ltd. [(1991) 187 ITR 1 (Bom)]** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hindustan Petrolium Corp. Ltd. Reference, accordingly stands disposed of with no order as to costs.

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